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SPOT LIGHTING SUPPLIES, INC.
dba Lighting-spot.com

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PHOTOGRAPHIC ILLUSTRATORS
CORPORATION,

Plaintiff,

v.

SPOT LIGHTING SUPPLIES, INC. dba
Lighting-spot.com,

Defendant.

Case No. 5:14-cv-2010-VC

**DEFENDANT SPOT LIGHTING
SUPPLIES, INC.'S ANSWER TO
PLAINTIFF'S COMPLAINT**

Hon. Vince Chhabria

Spot Lighting Supplies, Inc. (hereinafter "Spot Lighting") in response to the complaint of Photographic Illustrators Corporation ("PIC") admits, denies, and alleges as hereinafter set forth.

THE PARTIES

1. Responding to paragraph 1 of the complaint, Spot Lighting lacks sufficient information to form a belief as to the truth to the allegations therein contained and on that basis denies those allegations.

2. Responding to paragraph 2 of the complaint, Spot Lighting admits the allegations therein contained.

3. Responding to paragraph 3 of the complaint, Spot Lighting avers that to the extent the allegation is merely a legal conclusion, no response is required; to the extent a further

1 response to paragraph 3 is required, Spot Lighting lacks sufficient information to form a belief as
2 to the truth of the allegations therein contained and on that basis denies those allegations.

3 **JURISDICTION AND VENUE**

4 4. Responding to paragraph 4 of the complaint, Spot Lighting admits that the
5 complaint purports to set forth a claim pursuant to various federal and state laws. Spot Lighting
6 denies any liability with respect to these claims. Paragraph 4 of the Complaint presents a legal
7 conclusion to which no response is required. However, Spot Lighting admits that this Court has
8 jurisdiction over this case.

9 5. Responding to paragraph 5 of the complaint, Spot Lighting admits the allegations
10 contained in paragraph 5.

11 6. Responding to paragraph 6 of the complaint, Spot Lighting admits it operates a
12 commercial website (www.lighting-spot.com). Spot Lighting admits it regularly advertises, sells and
13 offers for sale, lighting products to online visitors to the website. Spot Lighting admits that it does
14 not exclude California consumers from visiting its website. Spot Lighting denies the remaining
15 allegations set forth in paragraph 6.

16 7. Responding to paragraph 7 of the complaint, Spot Lighting avers that to the extent
17 the allegation is merely a legal conclusion, no response is required; to the extent a further
18 response to paragraph 7 is required, Spot Lighting denies the allegations presented in Paragraph 7
19 but affirmatively states that it does not dispute that venue for this case is proper in this judicial
20 district.

21 **PIC'S ALLEGED COPYRIGHTED IMAGES**

22 8. Responding to paragraph 8 of the complaint, Spot Lighting lacks sufficient
23 information to form a belief as to the truth to the allegations therein contained and on that basis
24 denies those allegations in paragraph 8 of the complaint.

25 9. Responding to paragraph 9 of the complaint, Spot Lighting lacks sufficient
26 information to form a belief as to the truth to the allegations therein contained and on that basis
27 denies those allegations in paragraph 9 of the complaint.
28

1 10. Responding to paragraph 10 of the complaint, Spot Lighting lacks sufficient
2 information to form a belief as to the truth to the allegations therein contained and on that basis
3 denies those allegations in paragraph 10 of the complaint.

4 11. Responding to paragraph 11 of the complaint, Spot Lighting lacks sufficient
5 information to form a belief as to the truth to the allegations therein contained and on that basis
6 denies those allegations in paragraph 11 of the complaint.

7 12. Responding to paragraph 12 of the complaint, Spot Lighting states that the
8 Copyright Registration Certificate referenced therein speaks for itself, and therefore no response is
9 required. To the extent any allegations regarding the Copyright Registration Certificate in
10 paragraph 12 are in any way inconsistent with the Copyright Registration Certificates itself, Spot
11 Lighting denies those inconsistent allegations.

12 13. Responding to paragraph 13 of the complaint, Spot Lighting states that the
13 copyright registration applications referenced therein speak for themselves, and therefore no
14 response is required. To the extent any allegations regarding the copyright registration applications
15 in paragraph 13 are in any way inconsistent with the copyright registration applications themselves
16 or the notice of receipt from the Copyright Office, which PIC did not attach as exhibits, Spot
17 Lighting denies those inconsistent allegations. Spot Lighting lacks sufficient information to form a
18 belief as to the truth to the remaining allegations in paragraph 13 and on that basis denies those
19 allegations.

20 14. Responding to paragraph 14 of the complaint, Spot Lighting lacks sufficient
21 information to form a belief as to the truth to the allegations therein contained and on that basis
22 denies those allegations in paragraph 14 of the complaint.

23 **PIC'S ALLEGED PROTECTABLE MARKS**

24 15. Responding to paragraph 15 of the complaint, Spot Lighting lacks sufficient
25 information to form a belief as to the truth to the allegations therein contained and on that basis
26 denies those allegations in paragraph 15 of the complaint.

27 16. Responding to paragraph 16 of the complaint, Spot Lighting lacks sufficient
28 information to form a belief as to the truth to the allegations therein contained and on that basis

1 denies those allegations in paragraph 16 of the complaint.

2 17. Responding to paragraph 17 of the complaint, Spot Lighting lacks sufficient
3 information to form a belief as to the truth to the allegations therein contained and on that basis
4 denies those allegations in paragraph 17 of the complaint.

5 **SPOT LIGHTING'S ALLEGED UNAUTHORIZED ALTERATION**
6 **AND USE OF PIC'S IMAGES**

7 18. Responding to paragraph 18 of the complaint, Spot Lighting lacks sufficient
8 information to form a belief as to the truth to the allegations therein contained and on that basis
9 denies those allegations in paragraph 18 of the complaint.

10 19. Responding to paragraph 19 of the complaint, Spot Lighting denies the allegations
11 contained in paragraph 19.

12 20. Responding to paragraph 20 of the complaint, Spot Lighting denies the allegations
13 contained in the first sentence of paragraph 20. As to the remaining allegations in paragraph 20,
14 Spot Lighting lacks sufficient information to form a belief as to the truth to the remaining
15 allegations therein contained and on that basis denies the remaining allegations in paragraph 20
16 of the complaint.

17 21. Responding to paragraph 21 of the complaint, Spot Lighting denies the allegations
18 contained in paragraph 21.

19 22. Responding to paragraph 22 of the complaint, Spot Lighting lacks sufficient
20 information to form a belief as to the truth to the allegations therein contained and on that basis
21 denies those allegations in paragraph 22 of the complaint.

22 23. Responding to paragraph 23 of the complaint, upon information and belief, Spot
23 Lighting denies the allegations in paragraph 23 of the complaint.

24 24. Responding to paragraph 24 of the complaint, Spot Lighting denies the allegations
25 contained in paragraph 24.

26 25. Responding to paragraph 25 of the complaint, upon information and belief, Spot
27 Lighting denies the allegations in paragraph 25 of the complaint.
28

COUNT I**(Copyright Infringement, 17 U.S.C. § 501)**

26. Responding to paragraph 26 of the complaint, Spot Lighting re-alleges and incorporates each and every allegation, averment and denial contained in paragraphs 1 through 25 of this answer to the complaint with the same force and effect as if set forth in full herein.

27. Responding to paragraph 27 of the complaint, Spot Lighting denies the allegations contained in paragraph 27.

28. Responding to paragraph 28 of the complaint, Spot Lighting denies the allegations contained in paragraph 28.

29. Responding to paragraph 29 of the complaint, Spot Lighting denies the allegations contained in paragraph 29.

30. Responding to paragraph 30 of the complaint, Spot Lighting avers that to the extent the allegation is merely a legal conclusion, no response is required; to the extent a further response to paragraph 30 is required, Spot Lighting denies the allegations presented in Paragraph 30.

31. Responding to paragraph 31 of the complaint, Spot Lighting denies the allegations contained in paragraph 31.

Wherefore, Spot Lighting respectfully requests that the Court dismiss the complaint with prejudice and award Spot Lighting its costs and attorneys' fees, along with such other and further relief as is just and equitable.

COUNT II**(Integrity of Copyright Management Information, 17 U.S.C. § 1202)**

32. Responding to paragraph 32 of the complaint, Spot Lighting re-alleges and incorporates each and every allegation, averment and denial contained in paragraphs 1 through 31 of this answer to the complaint with the same force and effect as if set forth in full herein.

33. Responding to paragraph 33 of the complaint, Spot Lighting denies the allegations contained in paragraph 33.

34. Responding to paragraph 34 of the complaint, Spot Lighting denies the allegations contained in paragraph 34.

35. Responding to paragraph 35 of the complaint, Spot Lighting avers that to the extent the allegation is merely a legal conclusion, no response is required; to the extent a further response to paragraph 35 is required, Spot Lighting denies the allegations presented in Paragraph 35.

36. Responding to paragraph 36 of the complaint, Spot Lighting avers that to the extent the allegation is merely a legal conclusion, no response is required; to the extent a further response to paragraph 36 is required, Spot Lighting denies the allegations presented in Paragraph 36.

37. Responding to paragraph 37 of the complaint, Spot Lighting denies the allegations contained in paragraph 37.

Wherefore, Spot Lighting respectfully requests that the Court dismiss the complaint with prejudice and award Spot Lighting its costs and attorneys' fees, along with such other and further relief as is just and equitable.

COUNT III

(False Designation of Origin, 15 U.S.C. § 1125(a))

38. Responding to paragraph 38 of the complaint, Spot Lighting re-alleges and incorporates each and every allegation, averment and denial contained in paragraphs 1 through 37 of this answer to the complaint with the same force and effect as if set forth in full herein.

39. Responding to paragraph 39 of the complaint, Spot Lighting lacks sufficient information to form a belief as to the truth to the allegations therein contained and on that basis denies those allegations in paragraph 39 of the complaint.

40. Responding to paragraph 40 of the complaint, Spot Lighting denies the allegations contained in paragraph 40.

41. Responding to paragraph 41 of the complaint, Spot Lighting denies the allegations contained in paragraph 41.

1 42. Responding to paragraph 42 of the complaint, Spot Lighting lacks sufficient
2 information to form a belief as to the truth to the allegations therein contained and on that basis
3 denies those allegations in paragraph 42 of the complaint.

4 43. Responding to paragraph 43 of the complaint, Spot Lighting denies the allegations
5 contained in paragraph 43.

6 44. Responding to paragraph 44 of the complaint, Spot Lighting avers that to the extent
7 the allegation is merely a legal conclusion, no response is required; to the extent a further
8 response to paragraph 44 is required, Spot Lighting denies the allegations presented in Paragraph
9 44.

10 45. Responding to paragraph 45 of the complaint, Spot Lighting avers that to the extent
11 the allegation is merely a legal conclusion, no response is required; to the extent a further
12 response to paragraph 45 is required, Spot Lighting denies the allegations presented in Paragraph
13 45.

14 46. Responding to paragraph 46 of the complaint, Spot Lighting avers that to the extent
15 the allegation is merely a legal conclusion, no response is required; to the extent a further
16 response to paragraph 46 is required, Spot Lighting denies the allegations presented in Paragraph
17 46.

18 47. Responding to paragraph 47 of the complaint, Spot Lighting denies the allegations
19 contained in paragraph 47.

20 Wherefore, Spot Lighting respectfully requests that the Court dismiss the complaint with
21 prejudice and award Spot Lighting its costs and attorneys' fees, along with such other and further
22 relief as is just and equitable.

23 48. Spot Lighting denies the allegations presented in the "WHEREFORE" paragraph of
24 the complaint, including subsections A through S thereof. Spot Lighting further denies that PIC is
25 entitled to any of the relief sought in the "WHEREFORE" paragraph of its complaint, including but
26 not limited to the mandatory result for failing to establish the requisite elements of and failing to
27 comply with the statutes upon which PIC relies.

28 49. Any allegation not expressly admitted herein is denied.

AFFIRMATIVE DEFENSES

Spot Lighting asserts the following affirmative defenses in response to PIC's complaint:

First Affirmative Defense

PIC's complaint, in whole or in part, fails to state a claim upon which relief may be granted.

Second Affirmative Defense

PIC's claims are barred in whole or in part by the doctrines of acquiescence, Estoppel, including equitable estoppel, waiver and/or laches as PIC has slept on its rights.

Third Affirmative Defense

PIC's claims are barred in whole or in part by the doctrine of unclean hands, including the possibility of a misrepresentation to or a fraud upon the Copyright Office.

Fourth Affirmative Defense

PIC's claims are barred in whole or in part because PIC's copyrights, and any registrations therefor, are invalid.

Fifth Affirmative Defense

PIC's claims are barred in whole or in part based on the doctrine of fair use.

Sixth Affirmative Defense

PIC lacks standing to bring the claims asserted in the complaint.

Seventh Affirmative Defense

PIC's claims against Spot Lighting are limited or barred based on the fact Spot Lighting was misled by the omission of notice.

Eighth Affirmative Defense

PIC's claims are barred in whole or in part as a result of express or implied licenses.

Ninth Affirmative Defense

PIC's claims are barred in whole or in part by the applicable statutes of limitations.

Tenth Affirmative Defense

PIC's claims against Spot Lighting are limited or barred to the extent PIC failed to join necessary and indispensable parties to this action.

Eleventh Affirmative Defense

PIC's claims are barred in whole or in part as a result of release and/or waiver.

Twelfth Affirmative Defense

PIC's claims for injunctive relief should be dismissed on grounds of mootness.

Thirteenth Affirmative Defense

Spot Lighting was justified and legally excused in and about the matters alleged in the complaint, thus barring PIC from any recovery or entitlement to equitable remedies.

Fourteenth Affirmative Defense

PIC's claims against Spot Lighting are or may be barred, in whole or in part, to the extent that the claims against Spot Lighting do not involve an actual controversy upon which declaratory relief may be rendered or is otherwise non-judiciable and/or to the extent the complaint seeks an advisory opinion.

Fifteenth Affirmative Defense

Should a violation of 17 U.S.C. § 1202 be found, which allegation is expressly denied, Spot Lighting states that it was not aware and had no reason to believe that its acts constituted a violation.

Sixteenth Affirmative Defense

PIC's claims fail because Spot Lighting has conducted itself at all times in good faith, with a reasonable belief that its actions did not constitute a violation or infringement of any other person or entity's rights.

Seventeenth Affirmative Defense

There is no likelihood of consumer confusion.

Eighteenth Affirmative Defense

PIC's claims are barred in whole or in party as a result of copyright misuse.

Nineteenth Affirmative Defense

PIC's claims, including claims for statutory damages and attorneys' fees against Spot Lighting are limited or barred based on PIC's noncompliance with statutory provisions and to the extent PIC failed to register its copyrights prior to filing this litigation as required by 17 U.S.C.

1 Sections 411 and 412.

2 **Twentieth Affirmative Defense**

3 PIC's claims against Spot Lighting are limited or barred based on a statutory presumption
4 of abandonment.

5 **Twenty-First Affirmative Defense**

6 PIC's claims are barred in whole or in part due to PIC's failure to mitigate damages.

7 **Twenty-Second Affirmative Defense**

8 Spot Lighting hereby gives notice that it intends to rely upon such other affirmative defenses
9 as may become available or apparent during the course of discovery and therefore reserves the
10 right to amend or supplement its Answer, file further pleadings, and assert additional claims and
11 defenses as supported by the evidence.

12 **DEMAND FOR JURY TRIAL**

13 Spot Lighting Supplies, Inc. respectfully requests a trial by jury on all counts which are so
14 triable.

15
16 DATED: June 18, 2014

PHILLIPS, SPALLAS & ANGSTADT LLP

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